

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MAR 17 2011

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

GARY OLIVER,

Plaintiff,

v.

Civil Action No. 3:10cv47

OMEGA PROTEIN, INC.,

Defendant and Third-Party Plaintiff,

v.

GEORGE NOBLETT, INC. and
NORTHERN NECK GAS COMPANY,

Third-Party Defendants.

ORDER

By Orders entered herein on December 16, 2010 and January 3, 2011, respectively, the pending THIRD-PARTY DEFENDANT NORTHERN NECK GAS COMPANY'S RULE 12(b) (6) MOTION TO DISMISS AMENDED THIRD PARTY COMPLAINT (Docket No. 56) and GEORGE NOBLETT, INC.'S MOTION TO DISMISS PURSUANT TO RULE 12(b) (6) OF THE FEDERAL RULES OF EVIDENCE (Docket No. 64) were referred to Magistrate Judge Dennis W. Dohnal for report and recommendation.

Having reviewed the REPORT AND RECOMMENDATION (Docket No. 68) entered herein on January 31, 2011, Omega Protein, Inc.'s objections thereto (Docket No. 69) and Northern Neck Gas Company's response to Omega Protein, Inc.'s objections (Docket No. 71), Northern Neck Gas Company's objections (Docket No. 70) and George Noblett, Inc.'s objections (Docket No. 72), and having considered

Noblett, Inc.'s objections (Docket No. 72), and having considered the record and the REPORT AND RECOMMENDATION and finding no error therein, it is hereby ORDERED that:

- (1) Omega Protein, Inc.'s objections are overruled;
- (2) Northern Neck Gas Company's objections are overruled;
- (3) George Noblett, Inc.'s objections are overruled;
- (4) The REPORT AND RECOMMENDATION is ADOPTED on the basis of the reasoning of the REPORT AND RECOMMENDATION;
- (5) THIRD-PARTY DEFENDANT NORTHERN NECK GAS COMPANY'S RULE (12) (6) MOTION TO DISMISS AMENDED THIRD-PARTY COMPLAINT (Docket No. 56) is granted without prejudice and with leave to amend on a showing of good cause; and
- (6) MOTION TO DISMISS PURSUANT TO RULE 12(b) (6) OF THE FEDERAL RULES OF EVIDENCE (Docket No. 64) filed by George Noblett, Inc. is denied.

The issues are adequately addressed by the briefs and oral argument would not materially aid the decisional process.

The Clerk is directed to send a copy of this Order to the plaintiff and to counsel of record.

It is so ORDERED.

/s/

REP

Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: March 16, 2011